

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MOR USA, INC.,

Plaintiff,

- against -

ADAM TRADING, INC. and WALID M. ALI,

Defendants.
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: **ORDER ADOPTING REPORT AND
RECOMMENDATION**

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: 19-CV-7283 (AMD) (ST)

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ANN M. DONNELLY, United States District Judge:

On December 30, 2019, the plaintiff brought this action against the defendants seeking to recover damages from a breach of contract, as well as damages and declaratory relief pursuant to the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §§ 499a-t (“PACA”). (ECF No. 1.) On April 6, 2020, the Clerk of Court entered a Certificate of Default and on May 12, 2020, the plaintiff moved for default judgment against both defendants. (ECF Nos. 12, 13.) I referred the motion to United States Magistrate Judge Steven Tiscione for report and recommendation.

On February 10, 2021, after a hearing on the motion, Judge Tiscione recommended that I grant the plaintiff’s motion for default judgment and award the plaintiff \$73,119.04 in principal damages; \$658.00 in costs; \$4,616.50 in attorneys’ fees; \$13,509.05 in pre-judgment interest accrued through May 12, 2020; pre-judgment interest from May 13, 2020 until the date judgment is entered, accruing at a per diem rate of \$36.06; and post-judgment interest at the rate set forth in 28 U.S.C. § 1961. (ECF No. 17.) No objections have been filed to the Report and Recommendation, and the time for doing so has passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

I have reviewed Judge Tiscione’s comprehensive Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. I find that the plaintiff, as an unpaid seller, is a valid trust beneficiary of Adam Trading under the PACA and has a valid PACA trust claim against the defendants. I also find that the defendants are joint and severally liable, and I award the plaintiff \$91,902.59, plus pre-judgment interest in the amount of \$36.06 per day from May 13, 2020 until the date the judgment is entered and post judgment interest at the rate set forth in 28 U.S.C. § 1961. The Clerk of Court is respectfully directed to enter judgment in favor of the plaintiff and close this case.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY

United States District Judge

Dated: Brooklyn, New York
March 1, 2021